

## SENATE BILL NO. 485

INTRODUCED BY J. ELLINGSON

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A NEXT-OF-KIN REGISTRY; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Next-of-kin registry.** The next-of-kin registry is established within the office of the attorney general. The attorney general shall adopt rules to administer the registry.

**NEW SECTION. Section 2. Purpose.** The purpose of the next-of-kin registry is to establish a procedure by which a person may register another person as next of kin, who, after being registered, is entitled to the legal rights and responsibilities as provided in [section 4]. A person may designate a next of kin under [sections 1 through 7] to enable the next of kin to effectively manage the person's affairs under [sections 1 through 7] as designated by the person.

**NEW SECTION. Section 3. Registration -- forms -- fee -- modification or termination.** (1) A person may designate another person as next of kin for purposes of [sections 1 through 7] by filing the following information with the department:

- (a) the registrant's full name, address, and date of birth;
- (b) the registrant's designated next of kin's full name, address, and date of birth;
- (c) the priority among designated persons, if more than one next of kin is designated; and
- (d) the rights assigned to each designated person, as provided in [section 4].

(2) A person shall register under this section on a prescribed registration form. The registration form must be signed by the registrant and by any person designated as the registrant's next of kin and must be notarized.

(3) A person shall submit a registration form to the attorney general in person, by facsimile transmission, or by mail.

(4) The person shall pay a fee upon filing of the registration form.

(5) A registrant may revoke a registration at any time by submitting to the attorney general a signed, notarized statement, on a form prescribed by the attorney general, revoking the registration.

(6) The attorney general shall furnish a certified copy of the certificate and registration form to any person named on the certificate or registration form upon written request of that person.

**NEW SECTION. Section 4. Next-of-kin certificate -- rights and responsibilities.** (1) Upon receipt of a signed and notarized registration form and the required fee, the attorney general shall issue a certificate in a form prescribed by the attorney general. The form must contain the names of the registrant and the name of any person designated as the registrant's next of kin.

(2) Upon receipt of a certificate, individuals registered as next of kin are entitled to:

(a) all rights to visit the person who designated the individual as next of kin in any hospital, nursing home, or long-term care facility;

(b) the right to make health care decisions for the person who designated the individual as next of kin on the registration form if the person is unable to make the decisions, unless the right is in conflict with an existing durable power of attorney for health care purposes or with a declaration relating to the use of life-sustaining treatment in a living will; and

(c) the right to receive the body of a deceased person who designated the individual as next of kin and to make decisions regarding the disposal of the body.

**NEW SECTION. Section 5. Presumption created.** A person presenting a certificate of registration indicating that the person is registered as the next of kin on the next-of-kin registry is presumed to be the registrant's next of kin for all purposes under the laws of this state and is entitled, because of registration, to all rights of a next of kin, as provided in [section 4].

**NEW SECTION. Section 6. Duties of attorney general.** (1) The attorney general shall:

(a) prepare forms for designation of next of kin, termination of next-of-kin designation, the next-of-kin certificate, and the notices required by this section; and

(b) establish the amount of the fee authorized by [section 3]. The fee must be commensurate with the cost of providing the required forms.

(2) The attorney general shall make the registration forms available through:

- 1 (a) the attorney general;  
2 (b) each clerk of district court; and  
3 (c) each local health department.

4 (3) A notice provided by the attorney general that informs the public about the purpose and operation  
5 of the registry must be posted in a conspicuous place by each clerk of district court and local health department.  
6 The notice must include information regarding where to obtain a registration form, where to register, and the fee  
7 for registration.

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9 **NEW SECTION. Section 7. Information maintained in registry -- storage of data -- dissemination**  
10 **of information.** (1) The attorney general shall maintain the following information in the registry:

- 11 (a) the registration information provided by a registrant under [section 3];  
12 (b) the date that the attorney general receives a registration;  
13 (c) the fact of issuance of a next-of-kin certificate and the persons designated as a registrant's next of  
14 kin; and  
15 (d) any other information that the attorney general determines is necessary to access the information  
16 in the registry.

17 (2) The attorney general shall store the registry's data in a manner so that the data is accessible  
18 through the registrant's name and the designated next of kin's name.

19 (3) The attorney general may use the internet to disseminate to the public the information contained in  
20 the registry.

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22 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 7] are intended to be  
23 codified as an integral part of Title 2, chapter 15, part 5, and the provisions of Title 2, chapter 15, part 5, apply  
24 to [sections 1 through 7].

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26 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2005.

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